03-87

DEPARTMENT OF STATE

WASHINGTON

June 6, 2003

Excellency:

I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of Mongolia regarding the surrender of U.S. persons to third parties.

Recalling the Consular Convention between the Government of the United States of America and the Government of Mongolia, done at Ulaanbaatar on August 2, 1990, which facilitates the protection of the rights and interests of each Party's nationals,

Recalling also the Agreement on Military Exchanges and Visits between the Government of the United States of America and the Government of Mongolia, done at Ulaanbaatar on June 26, 1996, which addresses military exchanges and visits by each Party's military and civilian personnel who are carrying out that agreement,

Considering that the Government of the United States of America and the Government of Mongolia have each

His Excellency

Ravdangiin Bold,

Ambassador of Mongolia.

DIPLOMATIC NOTE

expressed their intention to continue their cooperation in the field of military assistance,

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Government of the United States of America has expressed its intention to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by its officials, employees, military personnel and nationals,

Respecting the expanding friendly relations between our countries,

I have the honor to propose the following agreement:

1. For purposes of this agreement, "U.S. persons" are all U.S. nationals and all current and former U.S. military personnel.

2. U.S. persons present in the territory of Mongolia shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, or

(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless such tribunal has been established by the UN Security Council.

3. When the Government of Mongolia extradites, surrenders, or otherwise transfers a U.S. person to a third country, the Government of Mongolia will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the United States of America.

4. This Agreement shall remain in force until one year after the date on which one party notifies the other of its intent to terminate the agreement. The provisions of this agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of Mongolia, this note and Your Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the agreement into force.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

R. L. L. Armitage

2833 M Street, NW
Washington, DC 20007
Tel: (202) 333-7117
Fax: (202) 298-9227
E-mail: esyam@mongolianembassy.us
Website: www.mongolianembassy.us

EMBASSY OF MONGOLIA

Excellency:

I have the honor to acknowledge receipt of Your Excellency's note dated June 6, 2003, which reads as follows:

"Excellency:

I have the honor to refer to recent discussions between representatives of the Government of the United States of America and the Government of Mongolia regarding the surrender of U.S. persons to third parties.

Recalling the Consular Convention between the Government of the United States of America and the Government of Mongolia, done at Ulaanbaatar on August 2, 1990, which facilitates the protection of the rights and interests of each Party's nationals,

Recalling also the Agreement on Military Exchanges and Visits between the Government of the United States of America and the Government of Mongolia, done at Ulaanbaatar on June 26, 1996, which addresses military exchanges and visits by each Party's military and civilian personnel who are carrying out that agreement,

Considering that the Government of the United States of America and the Government of Mongolia have each expressed their intention to continue their cooperation in the field of military assistance,

His Excellency

Colin Powell,

Secretary of State.

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Government of the United States of America has expressed its intention to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by its officials, employees, military personnel and nationals,

Respecting the expanding friendly relations between our countries,

I have the honor to propose the following agreement:

1. For purposes of this agreement, "U.S. persons" are all U.S. nationals and all current and former US military personnel.

2. U.S. persons present in the territory of Mongolia shall not, absent the express consent of the Government of the United States of America,

(a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, or

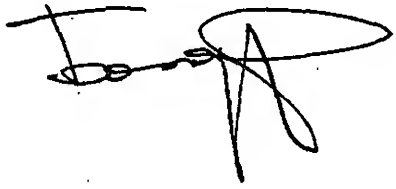
(b) be surrendered or transferred by any means to any other entity or third country, or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless such tribunal has been established by the UN Security Council.

3. When the Government of Mongolia extradites, surrenders, or otherwise transfers a U.S. person to a third country, the Government of Mongolia will not agree to the surrender or transfer of that person by the third country to any international tribunal, unless such tribunal has been established by the UN Security Council, absent the express consent of the Government of the United States of America.

4. This Agreement shall remain in force until one year after the date on which one party notifies the other of its intent to terminate the agreement. The provisions of this agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

If the proposal set forth herein is acceptable to the Government of Mongolia, this note and Your Excellency's affirmative note in reply shall constitute an agreement between our two Governments which shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the agreement into force.

Accept, Excellency, the renewed assurances of my highest consideration."

I have the honor to inform Your Excellency that the proposal set forth in Your note is acceptable to the Government of Mongolia and to confirm that Your Excellency's note and this note shall constitute an agreement between our two Governments which shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the agreement into force.

Ambassador of Mongolia: